

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

FILED

FEB - 6 2015

Clerk, U.S. District Court
District Of Montana
Billings

LEWIS PRICE III,

Plaintiff,

vs.

CITY OF RED LODGE, MONTANA, et al.,

Defendants.

CV 14-00058-BLG-SPW-CSO

ORDER DENYING MOTION FOR
EMERGENCY INJUNCTION AS
MOOT

Pending is Plaintiff Lewis Price's "Motion for Emergency Injunctive Relief and Notice of Intent to Apply for Writ of Madamus." (Doc. 26.) Mr. Price alleges that a Temporary Order of Protection listing eleven names and two businesses was entered into the NCIC as a Permanent Order of Protection on or about April 14, 2005 or May 5, 2005 without affording him due process of law. He moves the Court to order the immediate removal of all thirteen entries that are "illegally entered" into NCIC. (Doc. 26 at 2, ¶ 7.)

Defendants have responded that Mr. Price's motion is moot because the names of the 11 individuals and the two businesses have been removed by the Carbon County Sheriff's Office. (Doc. 27, at 4.) Defendants have presented the Affidavit of Janet Maddox, a dispatcher with the Carbon County Sheriff's Office. Ms. Maddox testified that on August 13, 2014 she cleared Lewis Price III's

information in the NCIC database. (Maddox Affidavit, Doc. 28-1 at ¶ 4.)


Mr. Price did not reply to Defendants' responses and has not disputed Ms. Maddox's claim that the information has been cleared.

Under Article III of the Constitution, the jurisdiction of a federal court depends on the existence of a "case or controversy"; without a case or controversy a claim is moot. *Pub. Util. Comm'n of State of Cal. v. FERC*, 100 F.3d 1451, 1458 (9th Cir. 1996). A claim is considered moot if it is no longer a present and live controversy or if no effective relief can be granted. *Mitchell v. Dupnik*, 75 F.3d 517, 527–28 (9th Cir. 1996). Questions of mootness regarding injunctions are viewed "in light of the present circumstances." *Mitchell*, 75 F.3d at 528.

In light of Defendants' undisputed evidence that the permanent order of protection at issue has been cleared from the NCIC database, Mr. Price's request for an emergency injunction is moot.

IT IS ORDERED that Mr. Price's "Motion for Emergency Injunctive Relief and Notice of Intent to Apply for Writ of Madamus" (Doc. 26) is DENIED AS MOOT.

DATED this 6th day of February, 2015,


SUSAN P. WATTERS
United States District Judge